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Attorneys for Defendant
TWITTER, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

OMAR ABDULAZIZ,
Plaintiff,

v.

TWITTER, INC.; MCKINSEY & CO.,
Defendants.

Case No. 3:19-cv-06694-LB

JOINT STATUS REPORT

Dept.: Courtroom B- 15th Floor
Judge: Hon. Laurel Beeler

Date Filed: October 18, 2019

Trial Date: None Set

1 In response to the Court's April 30, 2021 order directing the parties to submit a joint status
2 report, Plaintiff Omar Abdulaziz and Defendant Twitter, Inc. respectfully submit the following
3 statements:

4 **DEFENDANT'S POSITION**

5 On April 14, 2021, Plaintiff's counsel informed Twitter via email that they had "not heard
6 back from [their] client for some time now despite attempts to contact him." In the same
7 correspondence, Plaintiff's counsel requested a 10-day extension of their deadline to file
8 Plaintiff's Fourth Amended Complaint—then due April 19—due to the need to confer with their
9 client to confirm facts for that anticipated amended pleading. Counsel for Twitter responded that
10 Twitter was agreeable to extending Plaintiff's deadline to April 29 to file his Fourth Amended
11 Complaint, provided that Plaintiff's counsel inform the Court of their inability to reach their client
12 despite their attempts to contact him. However, Plaintiff's counsel did not agree to inform the
13 Court of those circumstances.

14 On April 19, Plaintiff's counsel elected to file their Fourth Amended Complaint without
15 further extension and without informing Twitter of whether they had been able to reach their
16 client. On April 20 and again on April 27, 2021, Twitter contacted Plaintiff's counsel to ask
17 whether they had been able to re-establish contact with their client. Plaintiff's counsel would not
18 confirm whether or not they had been able to re-establish contact with their client. On April 28,
19 Plaintiff's counsel responded to Twitter's inquiries, once again without confirming whether or not
20 they had been able to reach their client, instead merely stating "we believe this issue is now moot
21 in light of our filing the Fourth Amended Complaint."

22 On April 29, based upon Plaintiff's counsel's April 14 representation that they had been
23 unable to contact their client and their subsequent refusals to inform the Court of that fact or to
24 provide Twitter with any confirmation regarding whether they had been able to re-establish
25 contact with their client, Twitter filed a Notice of Plaintiff's Counsel's Inability to Contact
26 Plaintiff and Request for Order to Show Cause. On April 30, the Court directed the parties to
27 confer and submit a joint status report.

28 //

1 On May 2, 2021, for the first time, Plaintiff's counsel informed Twitter that they had been
 2 in contact with Plaintiff "both before and after" the evening of April 29. Plaintiff's counsel did
 3 not indicate when they had re-established contact with their client—i.e., whether it was before or
 4 after the April 19 filing of the Fourth Amended Complaint—and also did not explain why they
 5 had refused to answer Twitter's questions about whether they had been able to re-establish
 6 contact with their client.

7 On May 5, 2021, counsel for the parties conferred via telephone and Twitter's counsel
 8 inquired as to when Plaintiff had re-established contact with his counsel. Plaintiff's counsel
 9 responded that Twitter should serve Plaintiff with interrogatories if it wanted to know the date
 10 when Plaintiff had re-established contact with his counsel and that Plaintiff would seek a
 11 protective order to prevent Twitter from learning this information. Plaintiff's counsel refused to
 12 answer Twitter's counsel's questions about when they had re-established contact and whether
 13 they had re-established contact with Plaintiff before or after the April 19 filing of Plaintiff's
 14 Fourth Amended Complaint. Plaintiff's counsel also did not explain why they had refused to
 15 provide such information to Twitter prior to May 2.¹

16 Notwithstanding the above, in light of Plaintiff's counsel's May 2, 2021 representation
 17 that they now have been able to reestablish contact with their client, Twitter has agreed that it will
 18 withdraw its request to for an order to show cause pursuant to Rule 41(b), and hereby withdraws
 19 that request. It is also counsel for Twitter's hope that the parties will be able to work more
 20 cooperatively in the future to resolve such issues without the need of Court intervention.

21 **PLAINTIFF'S POSITION**

22 1. Plaintiff has in fact been in communication with his counsel both before and after
 23 Defendant's recent baseless filing.
 24

25 ¹ In paragraph 6 of Plaintiff's statement below, Plaintiff suggests that providing this information
 26 to Twitter's counsel may have "endangered" Plaintiff. However, Twitter's counsel did not
 27 request any information regarding Plaintiff's whereabouts or otherwise implicating his security.
 28 Twitter's counsel asked only whether Plaintiff's counsel had been able to re-establish contact
 with him. Moreover, prior to May 5, 2021, Plaintiff's counsel had never suggested to Twitter that
 merely providing information about whether they had re-established contact with their client
 would implicate any security concerns.

1 2. Defendant's claims that (a) "it appears" that the Fourth Amended Complaint was filed
2 without confirmation of the facts contained therein and (b) that Plaintiff has decided "to no longer
3 participate with his counsel in this litigation" are at best erroneous and at worse false.

4 3. Plaintiff has not missed a deadline nor has any court order been disobeyed.
5 There is not any possible legitimate basis beyond what "appears" to the Defendant for the
6 groundless assertions that Twitter has made.
7

8 4. Defendant sped to file its Notice of Plaintiffs' Counsel's Inability to Contact Plaintiff and
9 Request for Order to Show Cause less than a day after Plaintiff's counsel had told defendant's
10 counsel that Plaintiff's counsel thought that the issue was moot. Defense counsel never notified
11 Plaintiff's counsel of their intent to file such a Notice and never sought to confer with Plaintiff's
12 counsel about this. When asked, on May 5, 2021 why Defense counsel was in such haste to file
13 the notice and request for an order to show cause, Defense counsel merely stated that the inquiries
14 in their prior emails seemed sufficient.
15

16 5. When asked about what strikes the Plaintiff as defendant's undue haste in filing such a
17 Notice just fifteen days after Plaintiff's counsel had reported an interruption of communication,
18 Defendant relied Upon the cases referred to in its Notice. (Dismissal appropriate more than three
19 months [and possibly nine months] after Plaintiff's counsel lost touch with his client) *M.J.V. v.*
20 *City of Avenal* 2019 U.S. Dist. LEXIS 165790 (E.D. Cal. Sept. 25, 2019) and dismissal
21 appropriate twelve weeks after Plaintiffs' counsel reported this. *Xiufang Situ v. Leavitt* 2006
22 *U.S. Dist. LEXIS 94391* Slip op. at pp. 8-9 (N.D. Cal. December. 18, 2006).
23

24 6. Plaintiff entirely disagrees with Defendant's claim that "Plaintiff's counsel also did not
25 explain why they had refused to provide such information to Twitter prior to May 2". Defendant
26 fails to mention that Plaintiff reminded Defense counsel that Twitter admits that it has already
27 been infiltrated by spies from the Kingdom of Saudi Arabia which the United Nations has
28

1 implicated in the murder of Jamal Khashoggi. Defendant also fails to mention that Plaintiff has
 2 reported a worsening security situation since the Canadian government has identified Saudi
 3 assassination squads that have (at least) twice tried to enter the country with Plaintiff as one of
 4 their two targets. Defendant also failed to mention that Plaintiff's counsel offered to more fully
 5 describe the security problems to the Court *in camera* if the Court finds it necessary, but that it
 6 endangered Plaintiff to do more than that since it was not known how many KSA spies remained
 7 in Defendant's employ, and since the Royal Court of Saudi Arabia was by far the largest single
 8 Twitter stockholder.

10 7. After Plaintiff demanded that Twitter withdraw its Notice of Plaintiff's Counsel's Inability
 11 to Contact Plaintiff and Request for an Order to Show Cause why the Action should be dismissed
 12 pursuant to Federal Rule of Civil Procedure 41(b) and notified Twitter that he was reserving all
 13 rights pursuant to Federal Rule of Civil Procedure 11 and 28 U.S. Code §1927, Twitter agreed to
 14 withdraw its Rule 41(b) request.

16 8. Plaintiff's position is that Twitter's filing of the Notice and Request for OSC was entirely
 17 inappropriate under the circumstances (e.g. that the Fourth Amended Complaint had been timely
 18 filed, no deadlines had been missed and there was no extended period of Mr. Abdulaziz not
 19 responding to Plaintiff's counsel).

22 Dated: May 6, 2021

Respectfully submitted,
 KEKER, VAN NEST & PETERS LLP

24 By: /s/ Benjamin Berkowitz
 25 BENJAMIN BERKOWITZ
 26 KHARI J. TILLERY
 27 ANJALI SRINIVASAN
 28 RYLEE KERCHER OLM

Attorneys for Defendant
 TWITTER, INC.

1 Dated: May 6, 2021

KLEIMAN / RAJARAM

2
3 By: /s/ Mark A. Kleiman
MARK A. KLEIMAN

4 Attorneys for Plaintiff
5 OMAR ABDULAZIZ
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ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest that concurrence in the filing of this document has been obtained from the other signatories.

Dated: May 6, 2021

/s/ Benjamin Berkowitz
BENJAMIN BERKOWITZ